

was not a serious charge, they would probably dismiss it.

THE CHAIRMAN: Are there any further questions?

Delegate Beatrice Miller.

DELEGATE B. MILLER: I notice in the present Constitution there is no provision for the tribunal. What was the thinking of your Committee in adding this section to the section on impeachment?

THE CHAIRMAN: I could not hear the last part. To the section on what?

DELEGATE B. MILLER: On impeachment. Why was the tribunal provided for when it was not in the Constitution?

THE CHAIRMAN: Delegate Boyer.

DELEGATE BOYER: I do not know how else to say it except to repeat that their expertise and experience and the machinery they have would be more effective, and they would be able to delineate right from wrong on whether or not there had been a serious charge and whether or not there had been any guilt involved. The Committee felt, I felt, that it was better to have the judges conduct the actual trial rather than the Senate.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: The model constitution recommends a special tribunal much as your Committee has. In doing so, one of the reasons they give is that having the special tribunal would remove the special impeachments from the legislature and remove the procedure from partisan politics. Was that one of the reasons you took into account naming a special tribunal?

DELEGATE BOYER: Thanks very much, Delegate Scanlan. I could not have said it better myself.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: You confused me when you referred to the Court of Appeals choosing the ten judges by sitting en banc. Do you mean the majority of the Court of Appeals as four out of seven or a majority of the quorum that sits?

THE CHAIRMAN: Delegate Boyer.

DELEGATE BOYER: I am advised that the House of Delegates in their impeachment proceeding would have to have a three-fifths vote and this would carry over to the ten-judge tribunal.

DELEGATE WILLONER: I am referring to the selection process of the ten judges that would decide the case for lack of a better word.

THE CHAIRMAN: Delegate Boyer, the question Delegate Willoner asks is what number of judges in the Court of Appeals is necessary to concur in the appointment of the special tribunal of ten? A majority of the quorum or a majority of the whole court?

DELEGATE BOYER: The recommendation is silent on this, but I would imagine as in all other decisions of the Court of Appeals the majority would prevail.

THE CHAIRMAN: Delegate Willoner.

DELEGATE WILLONER: Of a quorum.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Mr. Chairman, I just rise because I think we have become confused. My recollection from the judiciary article is that this always requires a concurrence of four judges for any particular decision. Even when they sit as a panel of five, a majority of three is not sufficient to act; it would require a majority of four. I would suggest that the answer to Delegate Willoner is that it requires a concurrence of four of the seven judges that would appoint the ten that would serve on the impeachment panel.

DELEGATE BOYER: On reflection, I must concur with you. Thanks for your assistant, Delegate Bamberger. This is, it is true, my recollection of the judicial article. I think I got stampeded into giving an erroneous answer.

THE CHAIRMAN: Delegate Boyles.

DELEGATE BOYLES: Delegate Boyer, I take it the impeachment by the House of Delegates makes a trial by the Court of Appeals mandatory?

DELEGATE BOYER: No, there is no trial by the Court of Appeals. The Court of Appeals would appoint a special tribunal of ten judges.

DELEGATE BOYLES: Excuse me. By the judges which the Court of Appeals appoints?

DELEGATE BOYER: Yes, after the House of Delegates by a three-fifths vote makes the indictment, then it is mandatory that the special tribunal must conduct a hearing on it.